IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 004770.00491)

In re U.S. Patent Application of Gaurav Mittal, et al.	)	
	)	Group Art Unit: 2194
Application No. 10/625,447	)	
	)	Examiner: Qing Yuan Wu
Filed: July 23, 2003	)	
	)	Confirmation No. 7966
For: SYSTEM, AND ASSOCIATED METHOD, FOR DOWNLOADING AN APPLICATION	)	

BRIEF ON APPEAL

MS: Appeal Brief- Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §41.37, Appellant submits this Appeal Brief to the Board of Patent Appeals and Interferences in response to the Final Rejection mailed on August 23, 2007. The Commissioner is authorized to charge any fees owed or credit any overpayment of fees to Deposit Account No. 19-0733.

Page

I. Real Party in Interest

The real party in interest is Nokia Corp., the owner of the entire right, title and interest in and to the subject application.

II. Related Appeals and Interferences

There are no appeals or interferences related to the subject appeal.

III. Status of the Claims

Claims 1-12 and 15-40, which are involved in the appeal, stand finally rejected by an Office Action mailed August 23, 2007 and are found in the Appendix. No claim is allowed.

IV. Status of Amendments

No after final amendments were requested or are pending.

V. Summary of Claimed Subject Matter

The pending claims 1-12 and 15-40 are directed toward an apparatus and method for use in download application to a device, such as a cellular mobile device. Specification as filed, pg. 1, ln. 1-10. In an embodiment, a system may include a wide area network 102 that couples a hand-held device 108 to a server 104. Specification as filed, pg. 7, ln. 16-28. Both the server and the hand-held device may include a processor and memory for executing and storing computer instructions, respectively. Specification as filed, pg. 7, ln. 1-8. In an embodiment, an application may be downloaded without dependence on a particular content/application download model ("CADM") in a browser. Specification as filed, pg. 4, ln. 24-30. By removing dependency of the download mechanism on a browser, applications may be downloaded irrespective of the browser. Specification as filed, pg. 5, ln. 1-15. For example, a client device (Figure 1, 108) generates a request (Figure 4, 404) and the server (Figure 1, 102) receives the request (Figure 4, 406). Applications that available for the client device are retrieved (Figure 4, 408) and displayed (Figure 4, 410) by the client device. An end user (Figure 1, 110) may select an application (Figure 4, 414) and the application is then downloaded (Figure 4, 416, 418, 420, 422, 424, 426, 428, 432, 430). The client device may then display the application (Figure 4, 434). Claims 1, 8, 16, 22, 26, 30 and 32 are independent.

Turning to independent claim 1, the feature "receiving from a client device an initiation request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 29-30 (Figure 4, 406). In addition, the feature "responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application, the application descriptor including attributes to allow a determination by the client

device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 30 – pg. 10, ln. 10 (Figure 4, 408). Furthermore, the feature "transmitting from at least one server computer in a wireless browser independent manner the application information and the link to the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 10-16.

Turning to independent claim 8, the feature "receiving at a client device a request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 23-25. In addition, the feature "generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 24-28 (Figure 4, 404). Furthermore, the feature "in response to the initiation request, receiving from an application server computer through a network server computer at least one application choices and corresponding links" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 10-16 (Figure 4, 410).

Turning to independent claim 16, the claim is directed toward "a system for facilitating wireless browser independent downloading of an application from at least one server computer to a client device, the client device communicating with the at least one server computer in a wireless browser independent manner" (see generally Figure 1) and the feature of "at least one server computer having a processor adapted for executing program code" is recited and an

embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8, and in Figure 1. In addition, the feature "a client device having a processor adapted for executing program code" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8 and in Figure 1. Furthermore, the feature "a wide area network interconnecting the at least one server computer and the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 16-23 (Figure 1, 102). In addition, the feature "program code executable by the client device for receiving from a user a request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 9-13. Furthermore, the feature "program code executable by the client device for generating in a wireless browser independent manner to the at least one server computer an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 24-28 (Figure 4, 404). In addition, the feature "program code executable by the at least one server computer for receiving the initiation request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 29-30 (Figure 4, 406). Furthermore, the feature "program code executable by the at least one server computer, in response to receipt of the initiation request, for retrieving for each available application information describing the respective application and a link to an application descriptor for each respective application" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 29 – pg. 10, ln. 10.

Turning to independent claim 22, is directed toward an apparatus and the feature "a memory for storing instructions" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8, and in Figure 1. In addition, the feature "a processor that performs actions based on stored instructions" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8, and in Figure 1. Furthermore, the instruction "receiving, from a client device in a wireless browser independent manner, an initiation request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 24-30. In addition, the feature "responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 29 – pg. 10, ln. 10. Furthermore, the instruction "transmitting the application information and the link to the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 10-12.

Turning to independent claim 26, the feature "an input device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 9-11 (Figure 1, 114). In addition, the feature "an output device" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 22 (Figure 1, 116). Furthermore, the feature "a memory for storing instructions" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8, (Figure 1). In addition, the feature "a processor that performs actions based on stored instructions" is recited and an embodiment of this is at least found in the specification as filed, pg 7, ln. 1-8, (Figure 1). Furthermore, the instruction "receiving at the input device a

request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 23-24 (Figure 4, 402). In addition, the instruction "generating, in a wireless browser independent manner at the output device, an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 25 – 28 (Figure 4, 404); pg. 9, ln. 9-19. In addition, the instruction "in response to the initiation request, receiving at the input device at least one application choices and corresponding links" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 17-25 (Figure 4, 414).

Turning to independent claim 30, which is directed toward a computer-readable medium including instructions (see pg. 7, ln 1-7), and the instruction "receiving, from a client device communicating in a wireless browser independent manner, an initiation request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg. 9, ln. 29-30 (Figure 4, 406). In addition, the instruction "responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 29 – pg. 10, ln. 12 (Figure 4, 408). Furthermore, the instruction "transmitting the application information and the link to the client

device" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 10-12.

Turning to independent claim 32, which is directed toward a computer readable medium including instructions (see pg. 7, ln. 1-7), the instruction "receiving a request for information describing available applications" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 23-25 (Figure 4, 402). In addition, the instruction "generating in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device" is recited and an embodiment of this is at least found in the specification as filed, pg 9, ln. 25-28 (Figure 4, 404), pg. 9, ln. 9-19. Furthermore, the instruction "in response to the initiation request, receiving at least one application choices and corresponding links" is recited and an embodiment of this is at least found in the specification as filed, pg 10, ln. 10-16.

VI. Grounds of Rejection to be Reviewed on Appeal

Claims 1-12 and 15-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0034853 to Gibbons *et al.* (hereafter Gibbons). The rejection for claims 1-12 and 15-40 is being appealed.

VII. Argument

The discussion below, unless otherwise noted, addresses the rejected independent claims 1, 8, 16, 22, 26, 30 and 32. As will be discussed below, the rejection of independent claims 1, 8, 16, 22, 26, 30 and 32, as well as the rejection of corresponding dependent claims, should be reversed.

A. Gibbons Fails to Expressly Discloses the Recited Functioning in a "wireless browser independent manner" as Recited in Claims 1, 8, 16, 22, 26, 30 and 32.

Claims 1-12 and 15-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2004/0034853 to Gibbons *et al.* (hereafter Gibbons). To support a *prima facie* obviousness rejection, it is the burden of the Examiner to show that every feature is taught, suggested or disclosed by the cited references or to provide a rationale for why it would be obvious to include the feature. MPEP 2142; MPEP 706.02(j); *cf. Warner-Jenkinson Co., Inc. v. Hilton Davis Chem.* Co., 520 U.S. 17, 29 (1997) (requiring that each element be considered separately rather then allowing the invention to be considered as a whole); *KSR Int'l Co. v. Teleflex, Inc.*, 127 S.Ct. 1727, 1741 (2007) ("To facilitate review, this analysis should be made explicit."). Thus, the failure to show support for at least one feature recited in a claim will cause an obviousness rejection to fail.

Independent claim 1 recites the feature "transmitting from at least one server computer in a **wireless browser independent manner** the application information and the link to the client device" (emphasis added). Independent claim 8 recites the feature of "generating by the client device in a **wireless browser independent manner** an initiation request…." Independent claim 16 recites the feature "program code executable by the client device for generating in a wireless browser independent manner to the at least one server computer an initiation request for information describing available applications and for a link to an application descriptor

corresponding to each respective available application…" (emphasis added). Independent claim 22 recites the feature of "receiving, from a client device in a **wireless browser independent manner**, an initiation request for information describing available applications" (emphasis added). Independent claim 26 recites the feature of "generating, in a **wireless browser independent manner** at the output device…" (emphasis added). Independent claim 32 recites the feature of "generating in a **wireless browser independent manner** an initiation request…" (emphasis added). Thus, all the claims recite the feature of performing (or include instructions for performing) a task in a wireless browser independent manner. As the specification explains, this is beneficial because it does not require the use of a protocol stack and helps reduce the processor requirements on the portable device. Specification as filed, pg. 2, ln. 11-15; pg. 4, ln. 23 – pg. 5, ln. 15.

Here, the Examiner is arguing that Gibbons itself discloses the feature "wireless browser independent manner." Thus, the Examiner must point to something in Gibbons that discloses or teaches this feature. Gibbons, however, makes no mention of doing anything in a wireless browser independent manner and fails to even consider the requirements caused by using a protocol stack. Notably, the Examiner is unable to actually point to any place in Gibbons that discloses functioning in a browser independent manner, let alone in a wireless browser independent manner. For example, the Examiner in attempting to suggest that Gibbons discloses the feature of "generating by the client device in a wireless browser independent manner an initiation request…" as recited in claim 8 makes the following statement:

generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application [pg. 4, paragraph 50, lines 14-17 and paragraph 56; pg. 6, paragraphs 75-76]; and

Final Office Action, pg. 2. These cited portions of Gibbons are provided below and as can be easily determined, make no mention of the recited feature:

> **[0050] FIG. 1** illustrates a system implementing an embodiment of the ADP. **100** is a communication network. Communication network **100** is adapted to carry information between MT devices and information processing devices connected with a local or wide-area network. The information processing devices may include any type of computer capable of communicating with other devices, data storage devices, and network infrastructure as is well known by one of ordinary skill in the art. In an embodiment, communication network **100** is in communication with other data networks. Examples of other data networks include local or wide-area networks, such as private corporate networks, intranets, and extranets, as well as public networks such as the Internet. In an embodiment, communication network **100** includes wireless data communication facilities for communicating information to MT devices without the use of wires, optical fibers, or other physical connections. In a further embodiment, portions of communication network **100** include physical data communication connections such as wires or optical fibers.

Gibbons, pg. 4, ¶ 50. As can be readily appreciated, there is no mention of any functionality in a browser independent manner in this section of Gibbons. Instead, this section at most supports a suggestion that Gibbons discloses functioning in a wireless manner, without more. Thus, there is a substantial gap between this disclosure and what is recited in claim 8, for example. The other cited portions of Gibbons do not help to close this gap:

> **[0056]** A Download Object (DO) is data adapted to be downloaded and utilized by a Mobile Terminal device. Examples of the types of data contained in a DO include applications, operating system or AEE updates, audio and/or video content, and text. The types of DOs available are limited only by the capabilities of the communication network **100** and the Mobile Terminal device. The ADP is capable of working with any type of DO.

Gibbons, pg. 4, ¶ 56. This discloses that download objects have a variety of potential formats.

> **[0075]** In user-initiated object discovery, a user selects a DO for download through a Download Application (DA). A DA is a MT device application for retrieving a list of available DO for download. In an embodiment, the DA retrieves the list from the ADS. This process is described in more detail at another point of this application.
>
> **[0076]** The list provided by the DA displays information about the DO and provides a link with a URI to initiate the DO download. The URI specifies the location of a WAD associated with the DO. Once a link is selected, the DA passes the WAD URI to the AM for processing.

Gibbons, pg. 6, ¶ 75-76. These sections disclose that the download application (DA) retrieves a list of downloadable objects and provides a link with the location of the downloadable object, However, it is readily apparent that the cited portions of Gibbons makes no mention of functioning in a "wireless browser independent manner" as recited by claim 8. In particular, the DA is not suggested by Gibbons to be functioning in a "wireless browser independent manner" as recited in claim 8. In response to the assertion that Gibbons fails to mention the recited "wireless browser independent manner" feature, the Examiner suggests that this functionality "clearly" satisfies the limitation of "transmitting from at least one server computer in a wireless browser independent manner" such as is recited in claim 1:

40. As to point (a), the examiner respectfully disagrees and submits that Gibbons' system can be implemented in various network environments, which includes a wireless network environment [pg. 4, paragraph 50; 100, Fig. 1], and user (through the MT) initiating downloading of a DO through a DA in which the DA is a MT device application for retrieving a list of available DO for download from an ADS in communication with the wireless network environment [pg. 4, paragraph 52; 105, Fig. 1; pg. 6, paragraphs 74-75] which clearly satisfy the limitation above.

Final Office Action, pg 9. This suggestion, however, is not supported because Gibbons simply makes no mention of the DA functioning in a wireless browser independent manner. This failure to provide any mention of the recite feature prevents Gibbons from disclosing the recited feature. Thus, as this is a case where the Examiner is suggesting that Gibbons includes the recited feature, the failure of Gibbons to disclose the recite features causes the rejection to fail.

B. Gibbons Fails to Inherently or Implicitly Disclose the Recited Functioning in a "wireless browser independent manner" as Recited in Claims 1, 8, 16, 22, 26, 30 and 32.

As noted above, Gibbons simply fails to expressly mention functioning in a "wireless browser independent manner." The Examiner has therefore failed to provide any support for an express disclosure of such a feature. Furthermore, a careful search of Gibbons has failed to turn up any such disclosure. Therefore, it appears that the Examiner is actually suggesting that the feature of functioning in a "wireless browser independent manner" as recited in the independent claims is inherently disclosed by the DA of Gibbons. Such a suggestion, however, is contrary to what Gibbons actually discloses. In particular, Gibbons expressly discloses the use of a browser and indicates that the capabilities may be mandatory:

TABLE 3

Device Capabilities

Capability	Description
BitsPerPixel	number of bits per pixel provided by the device LCD
Carrier	name of the carrier that uses the device
ColorCapable	whether the device LCD display supports color
CountryCode	country code for the locale
ImageCapable	whether the device LCD display supports images
InputCharSet	input character set that the device supports, such as UTF8 or Latin
LanguageCode	language code for the locale
MinimumRamInKB	minimum RAM memory residing on the device (in KB units)
OutputCharSet	output character set supported by device
PixoRunTime	pixo runtime parameter
ScreenHeight	screen height
ScreenWidth	screen width
SoftKeysCapable	whether device supports soft keys
CLDC	version of the Connected Limited Device Configuration (CLDC, Sun J2ME) supported by the device
MIDP	version of the Mobile Information Device Profile (MIDP, Sun J2ME) supported by the device
BrowserType	type of browser residing on the device, such as HTML, WAP, and CHTML
ManagerType	type of the application manager residing on the device, such as Java Application Manager (JAM)

Gibbons, ¶ 128. Thus, Gibbons provides no support for the suggestion that some type of browser would not be used and certainly makes no suggestion that any of the functionality recited in Gibbons would necessary need to be accomplished in a browser independent manner (as must be shown to support an inherency argument). Thus, an argument that Gibbons inherently functions in a wireless browser independent manner is completely untenable. Instead, Gibbons makes it plain that a browser was intended to be used, thus effectively destroying any argument of inherency. It is noted that this understanding is further supported by the numerous statements in Gibbons that reflect the intention to use convention technology to make things simpler to program. See e.g., Gibbons, ¶ 25-27. In summary, the suggestion that Gibbons discloses

functioning in a "wireless browser independent manner" is not supported and in fact appears contrary to the disclosure of Gibbons.

C. The Suggestion That it Would Be Obvious to Modify Gibbons is Not Supported as Required by KSR, Thus the Rejection of Claims 1, 8, 16, 26, 30 and 32 is at Most Conclusory.

Independent claim 8 recites the feature of "an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device." The Examiner admits that Gibbons fails to disclose this but suggests that:

> 7. It would have been obvious to one of an ordinary skill in the art at the time the invention was made to modify the known method of downloading link to descriptors for determining operations to performed on application [pg. 5, paragraphs 61-64 and 71] to incorporate the determination of a suitable application for the client device [pg. 6, paragraph 79] to achieve the predictable result of downloading a suitable application for the device.

Final Office Action, pg. 3. This same basic rationale is used for the rejection of all the pending independent claims. However, it is not supported by Gibbons as required in order to support an obviousness rejection. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741 (2007) ("To facilitate review, this analysis should be made explicit. *See In re Kahn,* 441 F.3d 977, 988 (C.A.Fed. 2006) ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness").").

In particular, the metadata included in the wireless application descriptor (WAD) of Gibbons relates to how the downloadable object may be used. Gibbons, pg. 5, ¶ 61. However,

there is no discussion of using the WAD to determine if the downloadable object is suitable for the mobile terminal. Instead, Gibbons discloses that capacity matching may be accomplished through a WAP user agent profile mechanism. Gibbons, pg. 6, ¶ 79. Gibbons also discloses storing on the server a set of compatible devices along with several methods for device matching (*see* Gibbons, ¶ 119 – 132) and thus teaches away from providing information that would allow a mobile device to determine whether the application was compatible. Therefore, there is no support for the suggestion that it would have been obvious to modify the WAD to include attributes so that the client device could determine whether the application was suitable for the client device, instead the WAD is designed to control usage parameters (such as whether the downloadable object can be copied or how long it may be used). Accordingly, the suggestion that it would be obvious to modify Gibbons to use the WAD to determine suitability is contradicted by the disclosure and teaching that is provided by Gibbons.

Furthermore, the conclusory rationale provided fails to meet the requirement of an "articulated reasoning with some rational underpinning to support the legal conclusion of obviousness" and therefore cannot be sustained. For example, Gibbons appears to already provide for the allegedly "predictable result of downloading a suitable application for the device" with another mechanism, thus there would be no reason to change anything to achieve this result. In other words, the rationale for the modification lacks a logical basis. As this rationale is a basis for the rejection of all claims, for this additional reason the rejection of all the claims fails to provide a *prima facie* obviousness rejection.

D. Gibbons Fails to Disclose the Feature "transmitting from at least one server computer in a wireless browser independent manner..." as Recited in Independent Claim 1.

Independent Claim 1 recites the feature of "transmitting from at least one server computer in a wireless browser independent manner the application information and the link to

the client device" and no support has been provided for this feature. The Examiner has failed to show that Gibbons transmits "the application information and the link to the client device" in a "wireless browser independent manner." For example, a showing of a transmission of an "application information and the link to the client device" would simply fail to support a prima facie rejection because the recited step is done in a "wireless browser independent manner." Furthermore, the even if it could somehow be shown that Gibbons disclosed doing anything in a "wireless browser independent manner," something that is respectfully asserted cannot be shown, this would not support a suggestion that Gibbons expressly or inherently discloses the above recited features of claim 1 because there is no support for the suggestion that a server transmits in the recited manner. Accordingly, claim 1 is patentable over Gibbons.

E. Gibbons Fails to Disclose a Feature of Claims 8, 16, 26 and 32 That is Similar to the Feature "generating by the client device in a wireless browser independent an initiation request…" as Recited in Independent Claim 8.

Claim 8 recites the feature of "generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application" and no support for this feature has been provided. Claim 16 recites a system that includes a similar feature, specifically "program code executable by the client device for generating in a wireless browser independent manner to the at least one server computer an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application." Claim 26 recites the feature of "generating, in a wireless browser independent manner at the output device, an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application." Claim 32 is directed toward a computer readable medium that includes computer executable instruction and recites "generating in a

wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application." Thus, claims 8 16, 26 and 32 recite a feature directed, in general, to the generation of an initial request in a wireless browser independent manner. No support has been provided for the existence of the recited program code or a client device so configured. In particular, this feature is not expressly disclosed in Gibbons because Gibbons fails to disclose a client device that generates an initiation request in a "browser independent manner" and instead suggests that a browser is required. Furthermore, Gibbons does not necessarily use such a feature because a browser could be used to accomplish such a feature. Consequently, Gibbons fails to disclose at least one feature a client device, such as is recited in claims 8, 16, 26 and 32 and these claims are patentable over Gibbons.

F. Gibbons Fails to Disclose a Feature of Claims 8, 16, 26 and 32 That is Similar to the Feature "generating by the client device in a wireless browser independent an initiation request…" as Recited in Independent Claim 8.

Claim 22 is directed toward an apparatus that includes the feature "receiving, from a client device in a wireless browser independent manner, an initiation request for information describing available applications" and no support has been provided for an apparatus so configured. Claim 30 is directed toward a computer readable medium that includes computer executable instruction and recites "receiving, from a client device communicating in a wireless browser independent manner, an initiation request for information describing available applications. In this regard, it should be noted that merely being able to show the ability to receive an initiation request for information describing available applications is insufficient, because "in a wireless browser independent manner" is recited. The Examiner has simply failed to make a showing of any support for this feature and in view of the disclosure of using a

browser, it cannot be said that Gibbons inherently discloses this feature. Consequently, claims 22 and 30 are patentable over Gibbons.

VIII. Conclusion

The rejections contained in the Final Office Action of August 23, 2007 should be reversed for at least the reasons recited above. Reversal of the rejections is requested.

Respectfully submitted,

Date: February 11, 2008

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CLAIMS APPENDIX

1. A method, comprising:

receiving from a client device an initiation request for information describing available applications;

responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device; and

transmitting from at least one server computer in a wireless browser independent manner the application information and the link to the client device.

2. The method of claim 1, further comprising:

receiving from the client device a request for an application descriptor, the request comprising a link to the application descriptor; and

transmitting the application descriptor to the client device.

3. The method of claim 1, further comprising:

receiving from the client device a request for an application descriptor;

transmitting the application descriptor to the client device;

receiving from the client device a request to download a selected application;

retrieving the selected application; and

transmitting the selected application to the client device.

4. The method of claim 1, wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone.

5. The method of claim 1, wherein the at least one server computer comprises at least one of a network server and an application server.

6. The method of claim 1, wherein the at least one server computer comprises at least one application server coupled to the client device via at least one network server.

7. The method of claim 1, wherein the link is one of a uniform resource locator and a uniform resource identifier.

8. A method, comprising:

receiving at a client device a request for information describing available applications;

generating by the client device in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device; and

in response to the initiation request, receiving from an application server computer through a network server computer at least one application choices and corresponding links.

9. The method of claim 8, further comprising:

storing the links in a memory of the client device;

displaying the at least one application choices;

receiving a request for an application of the at least one application choices displayed;

recalling the link for the application requested;

reaching the link on the application server computer through the network server computer;

receiving at the client device an application descriptor for the application requested;

generating to the application server computer through the network server computer, via a content/application download model, a request to download the application requested; and

receiving and displaying at the client device the application requested.

10. The method of claim 8, further comprising:

determining from the application descriptor whether an application is suitable for downloading to the client device; and

upon a determination that the application is suitable for downloading to the client device, downloading the application.

11. The method of claim 8, wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone.

12. The method of claim 8, wherein the link is one of a uniform resource locator and a uniform resource identifier.

Claims (13-14) Cancelled

15. The method of claim 9, wherein the content/application download model is one of java application management system, binary runtime environment for wireless, and CoD.

16. A system for facilitating wireless browser independent downloading of an application from at least one server computer to a client device, the client device communicating with the at least one server computer in a wireless browser independent manner, the system comprising:

at least one server computer having a processor adapted for executing program code;

a client device having a processor adapted for executing program code;

a wide area network interconnecting the at least one server computer and the client device;

program code executable by the client device for receiving from a user a request for information describing available applications; and

program code executable by the client device for generating in a wireless browser independent manner to the at least one server computer an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by the client device as to whether the respective application is suitable for the client device;

program code executable by the at least one server computer for receiving the initiation request for information describing available applications; and

program code executable by the at least one server computer, in response to receipt of the initiation request, for retrieving for each available application information describing the respective application and a link to an application descriptor for each respective application.

17. The system of claim 16, further comprising:

program code executable by the client device for receiving from the at least one server computer the application choices and corresponding links;

program code executable by the client device for storing the links in a memory;

program code executable by the at least one server computer for receiving a request for an application descriptor, the request comprising a link for the application descriptor; and

program code executable by the at least one server computer for transmitting the application descriptor to the client device.

18. The system of claim 16, wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone.

19. The system of claim 16, wherein the at least one server computer comprises at least one of a network server and an application server.

20. The system of claim 16, wherein the at least one server computer comprises at least one application server coupled to the client device via at least one network server.

21. The system of claim 16, wherein the link is one of a uniform resource locator and a uniform resource identifier.

22. An apparatus, comprising:

a memory for storing instructions; and

a processor that performs actions based on stored instructions, comprising:

receiving, from a client device in a wireless browser independent manner, an initiation request for information describing available applications;

responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an

application descriptor for the respective application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device; and

transmitting the application information and the link to the client device.

23. The apparatus of claim 22, the stored instructions further comprising:

receiving from the client device a request for an application descriptor, the request comprising a link to the application descriptor; and

transmitting the application descriptor to the client device.

24. The apparatus of claim 22, the stored instructions further comprising:

receiving from the client device a request for an application descriptor;

transmitting the application descriptor to the client device;

receiving from the client device a request to download a selected application;

retrieving the selected application; and

transmitting the selected application to the client device.

25. The apparatus of claim 22, wherein the client device is one of a computer, a handheld device, a personal digital assistant, and a wireless mobile telephone.

26. An apparatus, comprising:

an input device;

an output device;

a memory for storing instructions; and

a processor that performs actions based on stored instructions, comprising:

receiving at the input device a request for information describing available applications;

generating, in a wireless browser independent manner at the output device, an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device; and

in response to the initiation request, receiving at the input device at least one application choices and corresponding links.

27. The apparatus of claim 26, the stored instructions further comprising:

storing the links in the memory;

displaying at the output device the at least one application choices;

receiving at the input device a request for an application of the at least one application choices displayed;

recalling the link for the application requested;

reaching the link on an application server computer through a network server computer;

receiving at the input device an application descriptor for the application requested;

generating at the output device, via a content/application download model, a request to download the application requested; and

receiving at the input device the application requested.

28. The apparatus of claim 26, the stored instructions further comprising:

determining from the application descriptor whether an application is suitable for downloading; and

upon a determination that the application is suitable for downloading, downloading the application in a wireless browser independent manner.

29. The apparatus of claim 26, wherein the link is one of a uniform resource locator and a uniform resource identifier.

30. A computer-readable medium storing computer-executable instructions comprising:

receiving, from a client device communicating in a wireless browser independent manner, an initiation request for information describing available applications;

responsive to the initiation request, retrieving for each available application information describing a respective application and a link to an application descriptor for the respective application, the application descriptor including attributes to allow a

determination by the client device as to whether the respective application is suitable for the client device; and

transmitting the application information and the link to the client device.

31. The computer-readable medium of claim 30, the computer-executable instructions further comprising:

receiving from the client device a request for an application descriptor;

transmitting the application descriptor to the client device;

receiving from the client device a request to download a selected application;

retrieving the selected application; and

transmitting the selected application to the client device.

32. A computer-readable medium storing computer-executable instructions comprising:

receiving a request for information describing available applications;

generating in a wireless browser independent manner an initiation request for information describing available applications and for a link to an application descriptor corresponding to each respective available application, the application descriptor including attributes to allow a determination by a client device as to whether the respective application is suitable for the client device; and

in response to the initiation request, receiving at least one application choices and corresponding links.

33. The computer-readable medium of claim 32, the computer-executable instructions further comprising:

storing the links in a memory;

displaying the at least one application choices;

receiving a request for an application of the at least one application choices displayed;

recalling the link for the application requested;

reaching the link on an application server computer through a network server computer;

receiving an application descriptor for the application requested;

generating, via a content/application download model, a request to download the application requested; and

receiving and displaying the application requested.

34. The computer-readable medium of claim 33, wherein the content/application download model is one of java application management system, binary runtime environment for wireless, and CoD.

35. The method of Claim 1 wherein the determination by the client device includes whether the client device has a suitable operating environment for the respective application.

36. The method of Claim 1 wherein the determination by the client device includes whether the client device has sufficient memory to store and execute the respective application.

37. The method of Claim 1 wherein the determination by the client device includes whether a display for the client device is compatible with the respective application.

38. The method of Claim 8 wherein the determination by the client device includes whether the client device has a suitable operating environment for the respective application.

39. The method of Claim 8 wherein the determination by the client device includes whether the client device has sufficient memory to store and execute the respective application.

40. The method of Claim 8 wherein the determination by the client device includes whether a display for the client device is compatible with the respective application.

EVIDENCE APPENDIX

-- NONE --

RELATED PROCEEDINGS APPENDIX

-- NONE --